

Message Text

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TAGS: EINV, EMIN, PFOR, PE, US

SUBJECT: MARCONA NATIONALIZATION - MINISTRY OF ENERGY
AND MINES (MEM) COMMUNIQUE ON "PROCEDURES
TO BE ESTABLISHED FOR THE EXPROPRIATION OF
MARCONA ASSETS"

REFS: A) LIMA 6336; B) LIMA 6361

1. FOLLOWING ARE ESSENTIAL ELEMENTS CONTAINED IN MEM
COMMUNIQUE OF AUGUST 6 (PARAGRAPH NUMBERING FOLLOWS
COMMUNIQUE.):

(1) IN ACCORD WITH D.L. 21228, UNDER SUPREME RESO-
LUTION NO. 177-75-EM/DGM (FROM THE DIRECTION GENERAL
OF MINING) OF AUGUST 5, A MULTISECTORAL COMMISSION HAS BEEN
ESTABLISHED TO DETERMINE THE ASSETS OF THE COMPANY WHICH
ARE SUBJECT TO EXPROPRIATION (...QUE SON MATERIA DE EX-
PROPRIACION.).

(2) ONCE THE ASSETS TO BE EXPROPRIATED ARE DETER-
MINED, THE MULTISECTORAL COMMISSION WILL DESIGNATE,
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THROUGH A SUPREME RESOLUTION, AN EXPERTS COMMISSION

TO APPRAISE THE VALUE FOR THESE ASSETS.

(3) WHEN THIS INITIAL EVALUATION HAS BEEN MADE, A SUPREME RESOLUTION WILL REQUEST THE ATTORNEY GENERAL (PROCURADOR GENERAL) TO BEGIN THE JUDICIAL PROCESS TO ESTABLISH A JUST PRICE FOR THE EXPROPRIATED ASSETS.

(4) WITHIN 24 HOURS OF THE INITIATION OF THE JUDICIAL PROCESS, THE JUDGE WILL NOTIFY THE MARCONA MINING COMPANY BRANCH IN PERU TO STATE, WITHIN A PERIOD OF THREE DAYS ITS AGREEMENT OR DISAGREEMENT WITH THE EVALUATION (VALOR DE LA TASACION).

(5) IF MARCONA MINING IS NOT IN AGREEMENT WITH THE ESTABLISHED VALUE, IT WILL DESIGNATE ITS EXPERT WHO, WITHIN A PERIOD LIMITED TO EIGHT DAYS (A PERIOD WHICH CANNOT BE EXTENDED) WILL MAKE HIS EVALUATION.

(6) IF THERE IS A DIFFERENCE BETWEEN THE VALUES OF THE EXPERTS OF BOTH PARTIES, THE JUDGE WILL DESIGNATE A ARBITRATING EXPERT (PERITO DIRIMENTE) WHO, WITHIN TEN DAYS (A PERIOD WHICH CAN BE EXTENDED ONLY ONCE), WILL DETERMINE THE VALUE OF THE EXPROPRIATED ASSETS.

(7) WITHIN TEN DAYS OF THE ARBITRATING EXPERT'S SUBMISSION, AND AFTER THE EVALUATION OF THE APPRAISALS SUBMITTED, THE JUDGE WILL REACH A FINAL JUDGMENT (EXPEDIRA RESOLUCION) FIXING THE PRICE OF THE EXPROPRIATED ASSETS.

(8) FOLLOWING THE RESOLUTION OF THE JUDGE FIXING THE PRICE OF THE EXPROPRIATED ASSETS, BOTH PARTIES WILL HAVE THE OPPORTUNITY TO APPEAL TO THE APPELATE COURT (COURT SUPERIOR) WITHIN A PERIOD OF THREE DAYS, AND ON APPEAL (DE NULIDAD) TO THE SUPREME COURT WITHIN FIVE DAYS. IN ONE OR THE OTHER CASE, THE RESPECTIVE COURT WILL MAKE A DETERMINATION WITHIN TEN DAYS.

(9) IF THE FINAL DECISION OF THE JUDGE IS ACCEPTED OR WHEN THE APPEALS PROCEDURE PROCESS IS COMPLETED, THE STATE WILL DEPOSIT THE AMOUNT OF MONEY (IN AN ACCOUNT),
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AND THE JUDGE WILL ORDER THE TRANSFER OF TITLE OF THE EXPROPRIATED GOODS (TRASLADO DE DOMINIO DE LOS BIENES EXPROPRIADOS).

(10) DEBTS TO THE STATE - WITHOUT PREJUDICE TO THE FOREGOING, THE DIFFERENT AGENCIES OF THE PUBLIC SECTOR WILL DETERMINE THE AMOUNT OF THE DEBTS WHICH THE MARCONA MINING COMPANY OWES TO THE STATE. (MARCONA) HAS THE RIGHT

TO INITIATE IN THE COUNTRY, BEFORE THE JUDICIAL POWERS, ALL
THE ACTIONS IT MAY DEEM APPROPRIATE, WITH RELATION TO THE
AFOREMENTIONED DEBTS. SIGNED AUGUST 6, 1975.

2. COMMUNIQUE USES WORD "PERITO" THROUGHOUT, WHICH CAN BE
TRANSLATED EITHER AS EXPERT OR APPRAISER. COMMENT FOLLOWS
SEPTEL. EMBASSY POUCHING TEXT.

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